

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

WILLIAM DAVID SEAL

PLAINTIFF

V.

CIVIL ACTION NO: 1:08cv175-LG-RHW

HARRISON COUNTY, MISSISSIPPI, ET AL.

DEFENDANTS

PLAINTIFF'S MOTION TO COMPEL VIDEOS

COMES NOW, Plaintiff, William David Seal ("Plaintiff"), by and through his undersigned counsel, and submits this Motion to Compel videos requested through discovery, and would show unto the Court as follows:

1. On or about April 30, 2009, Plaintiff propounded interrogatories and requests for production of documents to Defendant, Harrison County Sheriff, George Payne, in his official capacity, in the instant matter. See Exhibit "A". Plaintiff received responses to the interrogatories and requests for production of documents on or about June 18, 2009. See Exhibit "B".

2. Interrogatory No. 8 stated: "Describe any and all photographs, video tapes or film of the Plaintiff and/or subject matter of the present litigation." Defendant responded that all videos had been previously produced. See Exhibit "B".

3. Request for Production No. 6 stated: "Produce copies of any and all photographs, film, videotapes, drawings, newspaper articles, or diagrams which Defendants have or which may be in the hands of their attorney, which in any way relate to this claim." Defendant responded that all videos had been produced, and further pointed out that over 30 boxes of videos were made available to Plaintiff's counsel to review. See Exhibit "B". However, to Plaintiff's knowledge, none of the requested videos are contained in the numerous boxes made

available to Plaintiff.

4. On July 24, 2009, Plaintiff, through counsel, sent the Defendant a good faith letter regarding the missing videos. See Exhibit “C”. Plaintiff’s good faith letter explained that the Defendant failed to produce any videos of the booking area of the Harrison County Adult Detention Center (“HCADC”) for the night of September 4, 2005. Moreover, in response to Interrogatory No. 10(F.), Defendant responded that video was reviewed of the incident in investigating this claim. See Exhibit “B”. Finally, the internal investigation report produced by the HCADC refers to a video of the subject incident being viewed by jail officials. See Exhibit “D”.

5. On or about August 10, 2009, in response to the good faith letter, Defendant filed supplemental responses. See Exhibit “E”. Defendant again stated that it has produced all videos currently in its possession. Defendant provided no explanation as to why the alleged video that was viewed during the investigation was missing.

6. The Defendant is relying upon an internal investigation to support its claims and defenses in this matter. The internal investigation relies upon a video of the incident which occurred on September 4, 2005.

7. Plaintiff requests an Order from this Honorable Court that Defendant be compelled to produce all video angles of the booking area of the Harrison County Adult Detention Center for the night of September 4, 2005.

8. Pursuant to Local Rule 37.1, Plaintiff’s counsel sent Defendant’s counsel a Good Faith Certificate to be executed; however, the Good Faith Certificate was not returned executed. Accordingly, pursuant to Local Rule 37.1, attached is an affidavit by Plaintiff’s counsel in lieu of

the executed Good Faith Certificate. See Exhibit "F".

WHEREFORE, PREMISES CONSIDERED, Plaintiff, William David Seal, requests that this Honorable Court enter an Order compelling the Defendant to produce all video angles of the booking area of the Harrison County Adult Detention Center for the night of September 4, 2005, and further relief that this Honorable Court deems necessary.

This, the 11th day of September, 2009.

Respectfully Submitted

WILLIAM DAVID SEAL, Plaintiff

BY: BROWN BUCHANAN, P.A.

BY: /s/ Mark V. Watts
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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that I have this day electronically filed a true and correct copy of the foregoing pleading with the Clerk of Court using the ECF system which sent notification to such filing to the following counsel of record:

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Dated, this the 11th day of September, 2009

/s/Mark V. Watts
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